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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JABARI MARSHALL,

Defendant.

CASE NO. 2:19-cr-00113-JCM-BNW

**STIPULATION TO SUPPLEMENT PLEA
HEARING RECORD**

IT IS HEREBY STIPULATED by and between Kathleen Bliss, Esq., counsel for Defendant Jabari Marshall, and Eric Schmale, Assistant United States Attorney, that the plea hearing on May 7, 2021, in which Defendant Jabari Marshall waived his personal appearance and attended by video conference, should be supplemented with a findings consistent with the provisions of the CARES Act:

1. On March 30, 2020, Chief Judge Du issued General Order 2020-05, authorizing the use of video and telephone conferencing under the CARES Act. *See* Temporary General Order 2020-05; *see also* Order Extending Temporary General Order 2020-05.
2. Pursuant to that Order, “If a judge in an individual case finds, for specific reasons, that a felony plea or sentencing in that case cannot be further delayed without serious

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1 harm to the interests of justice,” the judge may, with the consent of the defendant, use
2 video conferencing for felony plea hearings. Temporary General Order 2020-05.

- 3 3. On April 22, 2021, this Court ordered defendant Marshall’s change of plea hearing by
4 video conference on May 7, 2021. In its minute order, ECF No. 44, the Court further
5 ordered: “[I]n accordance with the CARES Act and Temporary General Order 2020-
6 05, defense counsel shall explain why this hearing cannot be further delayed without
7 serious harm to the interests of justice.”
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9 4. While the record reflects that defendant Marshall consented to the change of plea by
10 video conference on May 7, 2021 (*see* ECF No. 47), the record from the hearing may
11 not fully reflect the reasons that the hearing could not be further delayed without
12 serious harm to the interests of justice, in accordance with the CARES Act and this
13 Court’s order.
14
15 5. Accordingly, the parties now request that this Court enter an order supplementing the
16 record for the May 7, 2021, change of plea hearing for defendant Marshall.
17 Specifically, the parties stipulate that the hearing could not be further delayed without
18 serious harm to the interests of justice. In particular, the parties stipulate, and request
19 that this Court find:

20 (1) Defendant Marshall signed a waiver to proceed by video conference for the
21 reasons that he desired a speeding resolution of his case, consistent with the provisions
22 of Fed. R. Crim. P.32(b)(1), that courts should “impose sentence without unnecessary
23 delay.”
24

25 (2) The interests of justice favor resolution of Defendant Marshall’s case
26 simultaneously with that of his co-defendant, Jalen Tony Henry.
27

28 (3) Defendant Marshall does not want to endure the extreme hardship of a

1 mandatory quarantine as required by U.S. Marshal protocol when a defendant is
2 transported from pretrial detention to and from court, especially when his personal
3 appearance can be waived as he has chosen to do so here.

4 (4) Defendant Marshall has risk factors, including an elevated Body Mass Index
5 (BMI), which cause him not to want possible COVID-19 or variant exposure from
6 transport.
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8 Respectfully submitted this 13th day of May 2021.
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12 /s/ Eric Schmale
13 ERIC SCHMALE, ESQ.
14 Assistant U.S. Attorney
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/s/Kathleen Bliss
KATHLEEN BLISS ESQ.
Counsel for Jabari Marshall

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,
4

5 Plaintiff,

6 vs.

7 JABARI MARSHALL,
8

9 Defendant.

CASE NO. 2:19-cr-00113-JCM-BNW

**FINDINGS OF FACT AND ORDER
SUPPLEMENTING PLEA HEARING
RECORD**

10 The Court, having reviewed the stipulation of the parties and for good cause showing
11 hereby ORDERS that the plea hearing record held on May 7, 2021, for defendant Jabari Marshall
12 shall be supplemented with the following findings of fact demonstrating that the felony plea
13 hearing in this case cannot be further delayed without serious harm to the interests of justice. The
14 Court thus FINDS:

15 (1) Defendant Marshall signed a waiver to proceed by video conference, which was filed
16 on May 7, 2021, at the time of the hearing. ECF No. 47.

17 (2) As stipulated by the parties, Defendant Marshall signed a waiver to proceed with his
18 plea hearing by video conference because he wanted a speeding resolution of his case, consistent
19 with the provisions of Fed. R. Crim. P.32(b)(1), that courts should “impose sentence without
20 unnecessary delay.
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22 (3) The interests of justice favor resolution of Defendant Marshall’s case simultaneously
23 with that of his co-defendant, Jalen Tony Henry.
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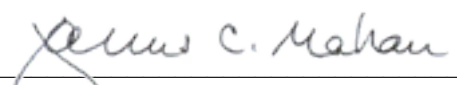
25 (4) Defendant Marshall does not want to endure the extreme hardship of a mandatory
26 quarantine as required by U.S. Marshal protocol when a defendant is transported from pretrial
27 detention to and from court, especially when his personal appearance can be waived as he has
28

1 chosen to do so here.

2 (5) Defendant Marshall has risk factors, including an elevated Body Mass Index (BMI),
3 which cause him not to want possible COVID-19 or variant exposure from transport.

4 (6) In accordance with these findings, the May 7, 2021, change of plea hearing for
5 defendant Jabari Marshall could not be further delayed without serious harm to the interests of
6 justice.
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9 DATED: May 17, 2021
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15 THE HONORABLE JAMES C. MAHAN
16 UNITED STATES DISTRICT JUDGE
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